

alternative is to proceed with the filing of multiple applications, each consisting of generally the same disclosure, and each being subjected to essentially the same search, perhaps by different Examiners on different occasions. This process would place an unnecessary burden on both the Patent and Trademark Office and on the Applicants.

Regardless of whether the inventions are independent or distinct, Applicants respectfully assert that the Examiner need not have restricted the application. MPEP § 803 requires that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Therefore, it is not mandatory to make a restriction requirement in all situations where it would be deemed proper.

In the interest of economy, for the Office, for the public-at-large, and for Applicants, reconsideration and withdrawal of the restriction requirement are requested.

Nevertheless, in order to comply with the requirements of 37 C.F.R. § 1.143, Applicant elect, with traverse, to prosecute the invention of Group I, drawn to a nanoscale or mesoscopic particles comprised of an inorganic material, namely claims 1-7, for prosecution in the above-identified application.

Applicants have no intention of abandoning any non-elected subject matter, and should it be necessary, Applicants expressly reserve the right to file one or more continuation and/or divisional applications directed to non-elected subject matter.

Applicants earnestly solicit favorable consideration of the above response and early passage to issue the present application. The Examiner is invited to contact the undersigned at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

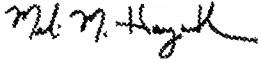
In the event that there are any questions relating to this response or the application, it would be appreciated if the Examiner would telephone the undersigned attorney.

Serial No. 10/579,247
Amendment Dated: February 26, 2010
Reply to Restriction Requirement

If necessary for a timely response, this paper should be considered as a petition for an Extension of Time, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 104014.B130137).

Respectfully submitted,

February 26, 2010


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